

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:	:	
	:	14-MD-2548 (VEC)
COMMODITY EXCHANGE, INC., GOLD	:	14-MC-2548 (VEC)
FUTURES AND OPTIONS TRADING	:	
LITIGATION	:	
	:	ORDER
<i>This Document Relates to All Actions</i>	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on December 9, 2016, the Court preliminarily approved a settlement with Deutsche Bank, Order, Dkt. 187;

WHEREAS on February 12, 2021, the Court preliminarily approved a settlement with HSBC Bank, Order, Dkt. 515;

WHEREAS on August 4, 2021, 65 class members, former members of the Commodity Exchange, Inc., objected to the proposed Plan of Allocation of the Net Settlement Fund, Dkt. 578;

WHEREAS on October 18, 2021, Plaintiffs informed the Court that they had reached a compromise with the Objectors that involved revising the Plan of Allocation, Dkt. 598;

WHEREAS in the letter, Plaintiffs noted that they “could submit a ‘redline’ of the Plan of Allocation and a proposal for informing class members of this opportunity,” *id.*; and

WHEREAS a hearing to consider the fairness, reasonableness, and adequacy of the Deutsche Bank and HSBC settlements (the “Fairness Hearing”) is currently scheduled for Thursday, October 21, 2021 at 10:00 A.M., Order, Dkt. 594;

IT IS HEREBY ORDERED that the Fairness Hearing is adjourned *sine die*.

IT IS FURTHER ORDERED that by no later than **Friday, November 12, 2021**, Plaintiffs must file a memorandum of law, not to exceed 25 pages, and supporting documentation that address the following issues:

1. Whether, under existing caselaw, Plaintiffs are required to notify the putative class of the proposed revisions to the Plan of Allocation and to give putative class members an additional period of time to object so that the Court may consider any objections from class members in determining whether the revised Plan of Allocation is fair and reasonable.¹ If pertinent to that question under the caselaw, Plaintiffs may quantify the impact of adding day trades subject to a 0.25 multiplier on the balance of the recovery available to the putative class.
2. Plaintiffs must file redlined and clean versions of the revised proposed Plan of Allocation as an exhibit to the memorandum of law.
3. If Plaintiffs agree that they must notify all putative class members, Plaintiffs must include a proposed notice plan and schedule. Plaintiffs must attach as exhibits copies of the form notice or notices that Plaintiffs propose using for that purpose. Plaintiffs are welcome to include a declaration from the Settlement Administrator with further details of the plan.
4. The plan to inform existing claimants and other members of the putative class about the opportunity to file supplemental Claims Forms with the pertinent information about their positions that were opened and closed on the same day and any deadline for the

¹ In its reply in support of its motion for final approval of the settlements, Plaintiffs note that “[t]hose who buy-sell-buy-sell-buy-sell throughout the day as market-makers trying to make profits from the ‘spread’ between bid and ask prices are uniquely likely to have trading volumes that dwarf other class members.” Reply, Dkt. 587 at 10. Even at the proposed 25% multiplier, *see* Letter, Dkt. 598 at 1, it appears that the inclusion of day trades may reduce substantially the amount other claimants would receive under the revised Plan of Allocation. Accordingly, the Court is inclined to require that Plaintiffs notify all putative class members of the proposed change to the Plan of Allocation so that class members have the opportunity to object, if they would like.

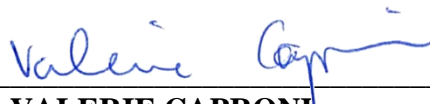
electronic or postmarked submission of those forms. Plaintiffs must attach as an exhibit a copy of the supplemental Claims Form.

Upon review of Plaintiffs' memorandum of law and supporting documents, the Court will reschedule the Fairness Hearing.

IT IS FURTHER ORDERED that, by no later than **Wednesday, October 20, 2021 and 5:00 P.M.**, Plaintiffs must post on the settlement website that the Fairness Hearing has been adjourned. *See* Order, Dkt. 516 ¶ 28. By no later than **Wednesday, October 20, 2021 at 6:00 P.M.**, Plaintiffs must inform the Court that the settlement website has been updated.

SO ORDERED.

Date: October 19, 2021
New York, NY



VALERIE CAPRONI
United States District Judge